

ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The dispute in the above-captioned adversary proceeding (the “Adversary Proceeding”) arose over Plaintiff’s performance under its contract (the “Contract”) with Defendant to provide certain fare collection equipment on Defendant’s buses (the “Fare Box Project”). On April 28, 2003, the Adversary Proceeding came to be heard before this court. After nearly six days of trial, the court recessed and held a status conference with counsel for the parties. At the status conference, counsel agreed to discuss with their respective clients appointment of a third-party to investigate the possibility of repairing the parties’ relationship and reinstating the Contract with appropriate modifications (hereinafter, “Contract” shall also refer to the Contract as modified). The parties having agreed, pending an investigation of Plaintiff’s continuing ability to perform,

to consider reinstatement of the Contract or other means of completing the Fare Box Project, it is hereby

ORDERED that, pursuant to section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”¹), William Snyder (“Snyder”) shall be appointed as, and shall immediately assume the position of, Plaintiff’s chief restructuring officer (“CRO”); and it is further

ORDERED that Snyder, in his role as CRO shall focus his efforts on the following tasks in the following order:

- a) assess Plaintiff’s continuing ability to perform under the Contract or otherwise complete the Fare Box Project, and make a recommendation to the court regarding same (“Phase I”);
- b) depending on the results of Phase I, coordinate discussions between Plaintiff and Defendant regarding reinstatement of the Contract or some other means of completing the Fare Box project (“Phase II”);
- c) depending on the results of Phase II, work with Plaintiff’s and Defendant’s respective counsel, upper management and project level personnel to develop a meaningful and accurate in-service qualification test (“ISQT”) for measuring Plaintiff’s performance with respect to the Contract or Fare Box Project (“Phase III”); and
- d) depending on the results of Phase II, serve as Plaintiff’s primary liaison with Defendant in implementing whatever solution the parties or the court deem appropriate (“Phase IV”).

ORDERED that Snyder shall initially be empowered to employ Mike Manos (“Manos”) to assist him in completing the Phase I and II tasks set forth herein;² and it is further

ORDERED that Snyder will seek court authority before employing Manos for tasks beyond those contemplated for Phases I and II;

¹ Hereinafter, all references to “section” shall, unless otherwise specified, mean the applicable section of the Bankruptcy Code.

² For the sake of simplicity and because this court is allowing but not requiring Snyder to seek assistance from Manos, unless otherwise indicated all subsequent references to “Snyder” are deemed to apply to both Snyder and Manos (in his capacity as Snyder’s assistant in this matter).

ORDERED that Plaintiff shall pay to Snyder \$ 300.00 per hour for his services as CRO; and it is further

ORDERED that Plaintiff shall pay to Snyder \$275.00 per hour for court-approved services rendered by Manos; and it is further

ORDERED that Snyder shall submit to Plaintiff monthly invoices for services provided in connection with this order, and shall, at the same time, circulate copies of such invoices to those parties who would otherwise be entitled to notice if Snyder had been employed under section 327 and was seeking approval of fees and expense under section 330; and it is further

ORDERED that, upon the expiration of 15 days after receipt of an invoice from Snyder for services performed and if no party (including Plaintiff) has objected, Plaintiff shall (without further action of this court) immediately remit payment to Snyder for the amount set forth in such invoice;

ORDERED that, in performing his duties during Phase I, Snyder shall consider all relevant factors, including, without limitation, the following:

- a) Plaintiff's financial condition;
- b) Plaintiff's access to necessary personnel to complete its obligations under the Contract;
- c) Plaintiff's ability, using available technology, to meet the requirements of the Contract or to otherwise complete the Fare Box Project;
- d) the commitment of Plaintiff's and Defendant's management to full performance of the Contract;
- e) possible role of Gulf Insurance Company;
- f) completion of the Contract through other means;
- g) best return for unsecured creditors; and it is further

ORDERED that Snyder shall complete Phase I and schedule a status conference (the "Initial Status Conference") with the court, Snyder, and Plaintiff's and Defendant's respective

counsel, project manager(s)³ and a person having decision-making authority to discuss Snyder's findings, which Initial Status Conference shall be held at 1:30 p.m. on June 9, 2003; and it is further

ORDERED that Snyder shall deliver to Plaintiff's, Defendant's and the Official Committee of Unsecured Creditors' respective counsel a report of his findings and recommendations on or before June 5, 2003; and it is further

ORDERED that, if Plaintiff or Defendant objects to Snyder's assessment or recommendation, it shall submit in writing to the court its specific objection before the Initial Status Conference. At the Initial Status Conference, the court shall attempt to resolve whatever disagreement exists and, if the court deems it appropriate, instruct the parties to proceed to Phase II in accordance with Snyder's recommendations (as modified by the court based on the parties' concerns); and it is further

ORDERED that, in performing his duties during Phase II, Snyder shall;

- a) act as an intermediary between members of Plaintiff's, Defendant's and Gulf Insurance Company's respective management teams in discussions concerning the Contract or Fare Box Project;
- b) facilitate direct discussions between Plaintiff's and Defendant's respective project level personnel when, in Snyder's judgment, such discussions will be productive;
- c) based on the current state of available technology, determine which of the Contract requirements are reasonably achievable, and, if such requirements are not reasonably achievable, determine an acceptable level of performance Plaintiff is capable of delivering taking into account industry standards;
- d) attempt to renegotiate revision to the Contract in accordance with paragraph c above; and it is further

ORDERED that Snyder shall complete Phase II by date to be set on June 9, and, within

³ The court uses this term as the parties used it during the trial of the Adversary Proceeding.

seven (7) days thereafter, submit a report to this court regarding the desirability and feasibility of continuing on to Phases III and IV; and it is further


ORDERED that, in performing his duties during Phases III and IV (if at all), Snyder shall;

- a) serve as a liaison between Plaintiff and Defendant regarding the Contract, Fare Box Project and ISQT;
- b) deliver to the court monthly reports of the parties' progress in Phases III and IV;
- c) immediately bring to the court's attention any matter inhibiting or likely to inhibit the successful conduct of Phases III and IV;
- d) after taking into account the terms and requirements of the Contract, oversee development of the ISQT;
- e) oversee the conduct of the ISQT;
- f) oversee implementation of the fleetwide installation and the RMAT; and it is further

ORDERED that Snyder shall be deemed to be an officer of the court, and, as such, shall enjoy the same immunity as any independent fiduciary serving at the behest of the court; and it is further

ORDERED that the court shall set a status conference at the request of the CRO, Plaintiff or Defendant.

Signed this 19th day of May 2003.


HONORABLE DENNIS MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE